IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9141 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL
and
Hon'ble MR.JUSTICE P.B.MAJMUDAR

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NITIN SHANTILAL PARIKH
Versus
UNION OF INDIA

Appearance:
MR RS SANJANWALA with MR. SHIRISH SANJANWALA for Petitioner
MR MUKESH R SHAH for Respondent No. 1, 2

CORAM : MR.JUSTICE B.C.PATEL
and
MR.JUSTICE P.B.MAJMUDAR

Date of decision: 18/09/2000

ORAL JUDGEMENT

Rule. Mr. M.R. Shah waives service of rule on behalf of the respondents.

Heard learned advocates appearing in the matter.

On behalf of the respondents, it is submitted that the impugned order dated 18/20th July 2000, copy of which is annexed to the petition at Annexure 'N', is an appellable order. Not only this, but a Society known as Visnagar Taluka Audyogic Sahakari Mandali Limited has preferred an appeal against the impugned order. Mr. Shah submitted that when the notice was issued to the Society, the Society was directed to inform all persons who were considered with the management of the Society.

If the Society, despite the direction, has not conveyed the information to the petitioner, it is none of the fault of the authority rendering the decision.

It is required to be noted that in the instant case, no notice has been issued to the petitioner, and without issuance of notice, the order is made for recovery of the amount. The principles of audi alteram partem requires that no one can be condemned unheard. If a notice was issued and the order was passed thereafter, the matter would have been different. Under the circumstances, the impugned order which is challenged before us, cannot be said to be in accordance with law insofar as the petitioner is concerned. Therefore, the order qua the petitioner stands quashed and set aside. It would be open for the Deputy Director General of Foreign Trade to proceed against the petitioner in accordance with law.

The petition stands allowed accordingly. No order as to costs.

(B.C. PATEL, J.)

csm./ (P.B. MAJMUDAR, J.)